

## REMARKS

The Non-final Office Action, mailed September 24, 2007, considered claims 1–26 and 32–44. Claim 24 was objected to as being of improper dependent form for failing to limit the subject matter of a previous claim. Claims 1–26 and 32–44 were objected to because of various informalities. Claims 1, 3–11, 13, and 17–20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carruthers et al., U.S. Patent Pub. No. 2002/0128904 (filed Jan. 23, 2001) (hereinafter Carruthers), (in view of Zigmond et al., U.S. Patent No. 6,698,020 (filed Jun. 15, 1998) (hereinafter Zigmond)). Claims 2, 12, and 14–16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carruthers in view of Zigmond, and further in view of Cannon, U.S. Patent No. 6,286,005 (filed Mar. 11, 1998) (hereinafter Cannon). Claims 22–26, 32–38, 41 and 44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carruthers in view of Zigmond, and further in view of Bates et al., U.S. Patent No. 6,425,127 (filed Jan. 13, 2000) (hereinafter Bates). Claims 39, 40, 42 and 43 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carruthers in view of Zigmond, further in view of Bates, and still further in view of Cannon.<sup>1</sup>

By this response, claims 1, 12, and 21 are amended and claims 22–26 and 32–44 have been cancelled. Claims 1–21 remain pending. Claims 1, 13, and 21 are independent claims which remain at issue. Support for the amendments may be found within Specification ¶¶ 54–56, 126–135 and 162.<sup>2</sup>

As reflected in the claims, the present invention is directed generally toward embodiments for scheduling an advertising campaign to achieve an advertising impression goal for advertising displayed via receivers. Claim 1 recites, for instance, in combination with all the elements of the claim, a method for scheduling the advertising campaign to achieve an advertising impression goal. The method includes receiving historical data from receiver modules including data about delivered advertising impressions, geographic information,

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<sup>1</sup> Although the prior art status of the cited art is not being challenged at this time, Applicants reserve the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

<sup>2</sup> However, it should be noted that the present invention and claims as recited take support from the entire Specification. As such, no particular part of the Specification should be considered separately from the entirety of the Specification.

demographic information, time of day, and programming viewed with the advertising impressions. The method also includes aggregating the historical data and applying a rule to the aggregation data to generate estimated historical data representative of all available receiver modules. The method further includes retrieving campaign data representing the number of advertising impressions of the advertisements scheduled for future display to target viewers and combining the historical data and the campaign data to generate a schedule of available advertising inventory usable by an advertiser to reserve advertising inventory for an advertising campaign so that an advertising impression goal may be achieved within the timeframe and among target viewers selected by the advertiser. Weights are assigned to advertisements in the advertising campaign defining a type of display frequency for the advertisements and the associated advertisement content. Metadata files are generated which comprise an ID attribute uniquely identifying advertising content, an ad type attribute indicating whether an advertisement is committed or flexible, an ad weight attribute which is a number to be interpreted by a receiver module and wherein an absolute weight is calculated as an impression goal for a committed advertisement divided by a total inventory, and a schedule element describing when advertising content is to be displayed to a viewer. Finally, the method includes delivering advertisement content and metadata files associated with the advertisements to at least one receiver module.

Claim 13 recites a computer program product embodiment of the method recited in claim 1. Claim 2, by this response, has been amended to recite a system embodiment of the method recited in claim 1.

Independent claims 1, 13, and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Carruthers and Zigmond.<sup>3</sup> By this response, the claims have been amended and the Applicants submit that Carruthers and Zigmond fail to teach or suggest all the claim limitations of the claims as now recited. (As claim 13 recites a computer program product embodiment of the method of claim 1 and claim 21 recites a system embodiment of the method of claim 1, the following discussion pertains to each of the remaining independent claims.)

In particular, Carruthers and Zigmond, separately and in combination, fail to teach or suggest applying a rule to the aggregation data to generate estimated historical data representative of all available receiver modules. Although the office action cited Carruthers ¶ 39

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<sup>3</sup> Office Communication p. 16 (paper no. 20070914, mailed Sep. 24, 2007).

for a similar limitation (as recited in the claim prior to amendment), the cited art fails to teach or suggest all the limitations. Carruthers ¶ 39 recites:

“After the On-Demand Scheduler 70 has the list of eligible advertisements and the state variables for those advertisements, it preferably examines any constraints for each advertisement. Constraints can include, e.g., the time required between successive impressions of a given advertisement, maximum number of impressions allowed, etc. If the constraints do not rule out the advertisement, it is placed in the subscribers' individual list of advertisements. The individual list is prioritized in accordance with the prioritized master list generated by the Delivery Manager 54.”

The cited passage, even in combination with Zigmond, fails to teach or suggest applying a rule to aggregation data to generate estimated historical data representative of all available receiver modules. Further, the aggregation data comprises historical data about (already) delivered advertising impressions, geographic information, demographic information, time of day, and programming viewed with the advertising impressions which is further not disclosed as a basis for the generation of estimated data representative of all available receiver modules.

Further, Carruthers and Zigmond, separately and in combination, fail to teach or suggest generating one or more metadata files associated with advertisement content, the metadata files comprising an ID attribute uniquely identifying advertising content, an ad type attribute indicating whether an advertisement is committed or flexible, an ad weight attribute which is a number to be interpreted by a receiver module and wherein an absolute weight is calculated as an impression goal for a committed advertisement divided by a total inventory, and a schedule element describing when advertising content is to be displayed to a viewer.

Because of at least the distinctions particularly pointed out above,<sup>4</sup> a rejection of claim 1 under 35 U.S.C. § 103(a) in view of Carruthers and Zigmond would be improper and should be withdrawn. Correspondingly, the Applicants respectfully request favorable reconsideration of claim 1.

As claims 13 and 21 are alternate embodiments of the method recited in claim 1 and because of at least the distinctions particularly pointed out above with respect to claim 1, a

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<sup>4</sup> In addition to the noted distinctions and notwithstanding the Examiner's response to arguments, the Applicants also respectively reiterate the distinctions over the prior art as pointed out in previous responses.

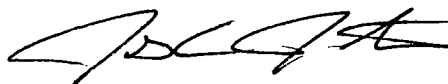
rejection of claims 13 and 21 under 35 U.S.C. § 103(a) in view of Carruthers and Zigmond would be improper and should be withdrawn. Correspondingly, the Applicants respectfully request favorable reconsideration of claims 13 and 21.

In view of the foregoing, Applicants respectfully submit that the other rejections to the remaining dependent claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicants acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicants reserve the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicants specifically request that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at 801-533-9800.

Dated this 21<sup>st</sup> day of December, 2007.

Respectfully submitted,



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